

REMARKS

This Amendment is submitted in reply to the final Office Action mailed on July 19, 2006. A petition for a one month extension of time is submitted herewith. The Director is authorized to charge \$120.00 for the petition for extension of time and any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-586 on the account statement.

Claims 1-5 and 7-16 are pending in this application. Claims 17-27 were previously withdrawn. Claim 6 was previously canceled. In the Office Action, Claims 1 and 7 are objected to and Claims 1-5 and 7-16 are rejected under 35 U.S.C. §103. In response, Claims 1 and 7 have been amended, and Claim 28 has been added. These amendments do not add new matter. In view of the amendment and for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, the Patent Office objects to Claims 1 and 7. In response, Applicants have amended Claim 1 for clarification purposes. The amendment is supported in the specification, for example, at page 5, line 19 to page 6, line 15. The Patent Office states it is unclear how a mixture can consist of one compound. In response, Applicants respectfully submit that although Claim 1 recites, in part, a mixture comprising at least 90 percent of its weight selected from a group of compounds, the other 10 percent of the "mixture" can comprise one or more different compounds (e.g. other sweeteners). Finally, Claim 7 has been amended to be dependent on independent Claim 1. Accordingly, Applicants respectfully request that the objections to Claims 1 and 7 be withdrawn.

In the Office Action, Claims 1-5 and 7-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,084,295 to Whelan et al. ("*Whelan*") in view of U.S. Patent No. 4,452,824 to Cole et al. ("*Cole*"). Claims 1-5, 9-14 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,427,701 to Morley ("*Morley*") in view of *Cole*. Applicants respectfully disagree with and traverse these rejections for at least the reasons set forth below.

Applicants have amended independent Claim 1 to recite, in part, a frozen dessert composition comprising a sweetening agent mixture comprising at least 90% of its weight of a sweetening component comprising glucose polymers and glucose, the glucose polymers comprising polymers of n molecules of glucose, wherein n is an integer between 2 and 10,

inclusive, with the glucose polymers representing from 10 to 50% of the weight of the sweetening agent mixture, wherein the sweetening component constitutes from 6 to 30% of the total weight of the frozen dessert composition. The amendment is supported in the specification, for example, at page 5, lines 22-30 and page 7, lines 12-15. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of independent Claim 1.

Whelan in view of *Cole* and *Morley* in view of *Cole* fail to disclose every element of independent Claim 1. For example, the cited references fail to disclose or suggest a sweetening agent mixture comprising at least 90% of its weight of a sweetening component comprising glucose polymers and glucose, the glucose polymers comprising polymers of n molecules of glucose, wherein n is an integer between 2 and 10 as required, in part, by independent Claim 1. The cited references also fail to disclose or suggest that the glucose polymers represent from 10 to 50% of the weight of the sweetening agent mixture as required, in part, by Claim 1. Finally, the cited references fail to disclose that the total amount of the sweetening component (e.g. mixture of polymers of n molecules of glucose and glucose and/or fructose) constitutes from 6 to 30% of the total weight of the dessert composition as required, in part, by Claim 1.

The Patent Office asserts that it would have been obvious to expect that the amount of sweetener included is an experimental result variable based on sweetness intensity of the particular sweetener and the sweetness effect desired in the product. See, Office Action, page 3, lines 14-17. However, Applicants have surprisingly found that it is possible to reduce the proportion of fat in a frozen dessert without limiting the malleability of the dessert at the freezing temperature, for example, by using the sweetening agent mixture of glucose polymers and glucose and/or fructose at the levels disclosed. See, specification, page 5, lines 19-25. Moreover, Applicants observed that the presence, in the proportions indicated, of these glucose polymers can make it possible to avoid or reduce the greasy taste of the frozen dessert without reducing the dessert's spoonable character and its capacity to be distributed by the nozzle of a pressurized container at the freezing temperatures. See, specification, page 5, lines 25-30. Consequently, besides any sweetening effects realized by the sweetening agent mixture, numerous textural effects were surprisingly discovered that go beyond the "sweetness effects" argued as obvious by the Patent Office.

Furthermore, because the sweetening agents mixture can comprise from 10 to 50% of glucose polymers, it is possible to not only compensate for the reduction of the quantity of fat to

be used in the composition of the frozen dessert according to the present invention, but also allow a modification of the nature of the fat. See, specification, page 5, line 31 to page 6, line 1. Indeed, it becomes possible to use, for example, as a mixture with fat having an onset of solidification temperature less than 0 °C, a certain proportion of fat having an onset of solidification temperature between 0 and 40 °C, which provides greater flexibility in the taste of the frozen dessert according to the invention. Therefore, it becomes possible to use whole milk as a source of proteins, for example, and no longer only skimmed milk as was the case in previously known frozen desserts because the fat in the milk can now partially replace the fat having an onset of solidification temperature of less than 0 °C.

It is also possible to advantageously use, as glucose polymers, the polymer fraction, which exists in a glucose syrup containing from 30 to 40% by weight of glucose and less than 1% by weight of fructose. It has been observed that the effect described above due to the glucose polymers can be reinforced by the addition of 1 to 5% by weight of dietary polyol(s), essentially glycerol and/or sorbitol, relative to the weight of the whole composition. Applicants have observed that, if the percentage of glucose increases in the composition, the frozen dessert obtained is more malleable. See, specification, page 6, lines 16-17.

In sum, Applicants respectfully submit that the combinations of *Whelan* in view of *Cole* or *Morley* in view of *Cole* fail to even recognize the advantages, benefits and/or properties of a frozen dessert composition comprising a sweetening agent mixture comprising at least 90% of its weight of a sweetening component comprising glucose polymers and glucose, the glucose polymers comprising polymers of n molecules of glucose, wherein n is an integer between 2 and 10, inclusive, with the glucose polymers representing from 10 to 50% of the weight of the sweetening agent mixture in accordance with the present claims. For at least the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2-5 and 7-16 that depend from Claim 1 are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejections of Claims 1-5 and 7-16 under 35 U.S.C. §103 be withdrawn.

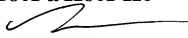
Applicants further note that Claim 28 has been newly added. No new matter has been added thereby. The new claims are fully supported in the specification, for example, at page 3, lines 7-15. Applicants respectfully submit that Claim 28 should be allowed.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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Dated: November 17, 2006